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Attorney's Docket No.: 15828-155001 / PE-00-029A

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jacobs et al.

Art Unit : 3629

Serial No. : 10/043,699

Examiner : Igor N. Borissov

Filed : January 9, 2002

Title : FUEL DISPENSER THAT DISPLAYS INFORMATION BASED UPON  
CUSTOMER IDENTITY**MAIL STOP APPEAL BRIEF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF (37 C.F.R. 41.37)

In response to the Notification of Non-Compliant Appeal Brief mailed December 15, 2005, Applicants submit herewith a complete replacement brief, in compliance with 37 C.F.R. § 41.37.

No fees are believed due. However, please apply any deficiencies or any other required fees or any credits to deposit account 06-1050, referencing the attorney docket number shown above.

Respectfully submitted,

Date:

Jan 12, 2006

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REPLACEMENT BRIEF ON APPEAL

Appellants respectfully submit this Replacement Appeal Brief to replace the defective Appeal Brief filed October 3, 2005. Appellants believe that this replacement brief satisfies the requirements of 37 C.F.R. § 41.37.

As stated in the previous brief, Appellants have appealed to this Board from the decision of the Examiner, contained in a Final Office Action mailed January 11, 2005 (the "Final Action"), finally rejecting Claims 1-24. Appellant mailed a Notice of Appeal on April 11, 2005.

**(1) Real Party in Interest**

The real party in interest for this Application under appeal is Dresser, Inc. of Addison, Texas.

**(2) Related Appeals and Interferences**

There are no other appeals or interferences known to the Appellants, the undersigned Attorney for Appellants, or the Assignee that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

Pursuant to the Final Office Action mailed January 11, 2005, all pending claims, 1-24, stand rejected. In particular, the Examiner maintains the rejection of Claims 1-24 under 35

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U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2003/0075600 ("*Struthers*").  
Claims 1-24 are all presented for appeal and are set forth in the Claims Appendix.

Appellant hereby appeals the rejections of Claims 1-24.

**(4) Status of Amendments**

Appellants filed amended Claims 5-7 in light of a rejection under 35 U.S.C. § 112 in the Office Action dated July 28, 2004. In the Final Action, the Examiner entered the amendments and indicated that the rejections under 35 U.S.C. § 112 have been withdrawn based on the amendments.

**(5) Summary of Claimed Subject Matter**

Independent Claim 1 is directed to a fuel dispensing system 102. The fuel dispensing system (102) includes fuel dispensing equipment (108), a customer interface (106), and a display (104). *See e.g.*, Page 4, Lines 23-26. The system also includes a controller (110) operably coupled to the fuel dispensing equipment (108), the customer interface (106), and the display (104). *Id.* The controller (110) is adapted to determine a manner in which a customer will pay to dispense fuel and to display information on the display as a function of the manner in which the customer will pay to dispense fuel. *Id.*, Page 5, Lines 27-29. At least a portion of the display information is unrelated to the manner in which the customer will pay to dispense fuel. *Id.*, Page 5, Lines 29-32.

Independent Claim 5 is directed to a method for dispensing fuel. The method includes determining a manner in which a user of the system will pay to dispense fuel. *Id.*, Page 5, Lines 27-29. Information from one or more remote sources of information (114a and/or 114b) is obtained. *Id.*, Page 6, Lines 12-15. The information of the display (104) is displayed as a function of the manner in which the user will pay to dispense fuel. *Id.*, Page 5, Lines 27-29. At least a portion of this information is unrelated to the manner in which the user will pay to dispense the fuel. *Id.*, Page 5, Lines 29-32.

**(6) Grounds of Rejection to be Reviewed on Appeal**

Claims 1-24 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2003/0075600 ("*Struthers*").

**(7) Argument**

**A. Standard for Rejections under 35 U.S.C. § 102**

A prior art reference anticipates a claim "only if *each and every element* as set forth in the claim is found, either expressly or inherently described," in that reference. *Verdegaal Bros. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987) (emphasis added); *see also* M.P.E.P. § 2131 (quoting *Verdegaal Bros.*, 814 F.2d at 631); *see also* M.P.E.P. § 706.02 ("[F]or anticipation under 35 U.S.C. § 102, the reference must teach *every aspect* of the claimed invention either explicitly or impliedly."). In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 U.S.P.Q. 2d 1566 (Fed. Cir. 1990); M.P.E.P. § 2131 (*emphasis added*).

**B. *Struthers* Fails to Disclose or Teach All the Limitations of Claims 1-24.**

*Struthers* fails to teach each and every limitation of the claimed invention. For example, independent Claim 1 recites that information unrelated to the manner in which a customer will pay to dispense fuel is displayed "as a function of the manner in which the customer will pay to dispense fuel." While addressing this limitation in the Response to Arguments section of the Final Action, the Examiner asserts that merely presenting transaction opportunities to a customer such as "offers to purchase but also offers to get cash, play a game, participate in a promotion, etc." is sufficient to teach the identified claim limitation. Final Action, Page 5. However, the Examiner fails to indicate that any of this information is displayed *as a function of the manner in which the customer will pay*, much less that information unrelated to the manner in which a customer will pay to dispense fuel is displayed as a function of the manner in which the customer will pay. In fact, Appellants submit that the offered information is either directly related to the manner of payment or is not displayed as a function of the manner in which the customer will pay. First, Appellants submit that information unrelated to the manner in which a customer will

pay to dispense fuel is displayed *regardless* of the manner in which the customer will pay. In particular, *Struthers* teaches a display of a fuel dispenser presenting objects that represent transaction opportunities to a customer such that information is displayed in response to a customer selecting one of these buttons. Page 5, [0073]-[0076]. The retailer and/or a third party may configure the arrangement of these objects and/or the sequence of screens prior to the customer interfacing with the fuel dispenser. Page 2, [0012]. For example, FIGURE 5 of *Struthers* displays a series of screen sequences that the customer may browse during the fuel transaction. Page 5, [0073]. In illustrated example, the objects include the following buttons: a Deli button object, a Car Wash button object, a Cash Back button object, and a Game button object. Page 5, [0073]. In response to a selection from the customer, the fuel dispenser will display the screen associated with the selection. *Id.* If a customer selects the Deli button object 160, for example, the fuel dispenser will present the screen 604 enabling the customer to select from food choices (*e.g.*, Subs, Burgers, Tacos, etc.). Page 5, [0074]. Accordingly, Appellants submit that *Struthers* teaches, at most, displaying information not related to the manner in which the customer pays for the fuel as a function of the customer's selection, not "as a function of the manner in which the customer will pay to dispense fuel."

In addition, Appellants submit that the only information that is displayed as a function of the manner in which the customer will pay is information *directly related* to the manner in which the customer will pay. For example, the fuel dispenser may display a keypad for entering a PIN number in response to the customer indicating that the transaction will be performed using a debit card. As disclosed in *Struthers*, the customer selects the Debit button in screen 506 to indicated the mode of payment. Paragraph [0062]. In response to the selection, the fuel dispenser displays screen 508 to enable the customer to input payment identification information in order for the fuel dispenser to authorize the transaction. *Id.* Accordingly, Appellants respectfully request allowance of Claim 1 and its dependents, claims 2-4.

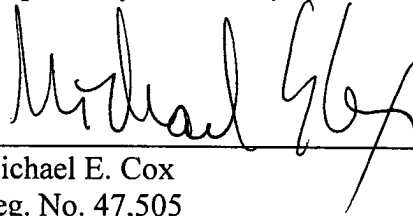
Independent Claims 5 recites limitations that are similar, although not identical, to the limitation of Claim 1 discussed above. Therefore, this claim is allowable for reasons analogous to those discussed above in connection with Claim 1. Claims 6-24 each depend from independent Claim 5 and are thus also patentable over the cited art.

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It is believed that no fees are due at this time. However, please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Cox", is written over a horizontal line.

Michael E. Cox  
Reg. No. 47,505

Date: January 12, 2006

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## **Claims Appendix**

1. A fuel dispensing system, comprising:  
fuel dispensing equipment;  
a user interface;  
a display; and  
a controller operably coupled to the fuel dispensing equipment, the user interface, and the display, the controller adapted to determine a manner in which a user will pay to dispense fuel and to display information on the display as a function of the manner in which the user will pay to dispense fuel;  
  
wherein at least a portion of the display information is unrelated to the manner in which the user will pay to dispense fuel.
2. The fuel dispensing system of Claim 1, further comprising a network interface operably coupled to the controller and connectable to one or more programming providers; and  
wherein the controller is adapted to obtain at least some of the displayed information from one or more of the programming providers.
3. The fuel dispensing system of Claim 2, wherein a plurality of programming providers are operably coupled to the network interface; and wherein the controller is adapted to obtain at least some of the displayed information from a plurality of the programming providers.
4. The system of Claim 1, wherein the information is selected from the group consisting of advertising, news, weather, sports, financial news, entertainment, Internet access, driving directions, and e-mail access.

5. A method for dispensing fuel, comprising:  
determining a manner in which a user of the system will pay to dispense fuel;  
obtaining information from one or more remote sources of information; and  
displaying the information on the display as a function of the manner in which the user  
will pay to dispense the fuel;

wherein at least a portion of this information is unrelated to the manner in which the user  
will pay to dispense the fuel.

6. The method of Claim 5, further comprising:  
obtaining the displayed information from a plurality of remote sources of information.

7. The method of Claim 5 further comprising:  
obtaining the displayed information from a plurality of remote sources of information.

8. The method of Claim 7, further comprising:  
obtaining at lease some of the information from a plurality of remote sources of  
information; and  
selecting a subset of the information for display; according to an identity of the user.

9. The method of Claim 7, further comprising:  
displaying information on the display as a function of whether or not the user is a  
preferred customer.

10. The method of Claim 7, further comprising:  
displaying information on the display as a function of the degree to which the user is a  
preferred customer.

11. The method of Claim 7, further comprising:  
displaying information on the display as a function of vehicle information for the user.



12. The method of Claim 11, wherein the information is selected from the group consisting of warranty information, servicing information, and manufacturer recall information for the customer's vehicle.

13. The method of Claim 7, further comprising:  
displaying information on the display as a function of the display preferences for the user.

14. The method of Claim 7, further comprising:  
maintaining a database comprising customer records that include customer identifiers and customer data.

15. The method of Claim 14, wherein the customer data comprises transaction data representative of how often the user has dispensed fuel using the system within a predetermined time period.

16. The method of Claim 14, wherein the customer data comprises transaction data, representative of how much money the user has spent dispensing fuel using the system within a predetermined time period.

17. The method of Claim 14, wherein the customer data comprises transaction data representative of how often the user has dispensed fuel using the system and how much money the user has spent dispensing fuel using the system within a predetermined time period.

18. The method of Claim 14, wherein the customer data includes demographic data representative of the characteristic of the user.

19. The method of Claim 14, wherein the customer data includes vehicle data representative of the identity of the user's vehicle.

20. The method of Claim 14, wherein the customer data includes display preferences of the user.

21. The method of Claim 14, further comprising:  
retrieving one of the customer records associated with the user; and  
processing the associated customer record to determine what to display on the display.

22. The method of Claim 7, wherein the information is selected from the group consisting of advertising, news, weather, sports, financial news, entertainment, Internet access, driving directions, and e-mail access.

23. The method of Claim 7, wherein the information is selected from the group consisting of warranty information, servicing information, and manufacturer recall information for the customer's vehicle.

24. The method of Claim 7, wherein determining an identity of a user comprises determining that the user fits a profile for generalized identification of customers.

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### **Evidence Appendix**

None.

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### **Related Proceedings Appendix**

None.

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